

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**BUILDER'S WORLD, INC.,
Plaintiff,**

v.

Case No. 06C0555

**MARVIN LUMBER & CEDAR, INC.,
Defendant.**

DECISION AND ORDER

Plaintiff Builder's World, Inc. ("BWI"), a distributor of windows manufactured by defendant Marvin Lumber & Cedar, Inc. ("Marvin"), brought this action alleging that Marvin violated the Wisconsin Fair Dealership Law ("WFDL") by selling its products directly to dealers, thus undermining BWI's role as a distributor. On November 28, 2006, I denied BWI's application for a preliminary injunction on the ground that it had failed to establish irreparable harm. Subsequently, BWI renewed its request for preliminary relief. I held a hearing, and on April 3, 2007 granted BWI's request. Subsequently, Marvin sought a partial stay of the preliminary injunction and increase in the bond. The parties submitted briefs, and on May 4, 2007, I heard oral argument. However, on May 10, 2007, before I issued a decision, the Seventh Circuit granted Marvin a partial stay on a temporary basis.

Although I have found no authority exactly on point, it may be that the Seventh Circuit's action divested me of jurisdiction over Marvin's request for a partial stay. Generally speaking, once a notice of appeal is filed, a district court is divested of those aspects of the case involved in the appeal. Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982). The rule is judge-made; its purpose is to promote judicial

economy and avoid the confusion that would ensue from having the same issue before two courts simultaneously. In any case, because the Seventh Circuit has granted Marvin a partial stay, Marvin's request for such relief in this court is moot. With respect to Marvin's request to increase the bond, at oral argument Marvin stated that it would forego the request if it obtained a partial stay.

Therefore,

IT IS ORDERED that Marvin's request for a partial stay is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that Marvin's request to increase BWI's bond is **DENIED**.

Dated at Milwaukee, Wisconsin, this 15 day of May, 2007.

/s _____
LYNN ADELMAN
District Judge